

## Summary of Changes to 702 KAR 4:160

This regulation prescribes procedures and criteria for the construction of public school buildings, and adopts and incorporates certain standard industry documents published by the American Institute of Architects (AIA). About every 10 years AIA updates some of the primary documents, and in 2007 they revised documents regarding relationships between the Owner-Contractor and the Owner-Architect. The major purpose of this amendment is to adopt the 2007 editions of AIA Documents (AIA A101, Owner-Contractor Agreement; AIA A201-General Conditions of the Contract for Construction; AIA B101, Owner-Architect Agreement), and to update the Department amendments to fit the 2007 AIA documents. Some revisions are a result of recommendations of Auditor of Public Accounts' Report, dated 9/7/07, and the School Facilities Task Force Report, dated 9/30/06. The Kentucky Fairness in Construction Act causes a few revisions, and several changes are housekeeping in nature.

A summary of major revisions to 702 KAR 4:160 follows:

- Section 1. Definitions of "Contract Documents" and "Record Drawings" are added.
- Section 1. Construction Managers shall have experience on projects of \$2,000,000, in lieu of \$1,000,000.
- Section 3. Limit gross area of new schools to a maximum 110% and 115% of Model Program Space for elementary and middle/high schools respectively.
- Section 3. The Superintendent or his/her representative, known as the owner's representative, may act on behalf of the board.
- Section 3. Substantial Completion is as defined in AIA A201-2007.
- Section 4. Advertisement or RFP for architectural services not required for projects estimated at less than \$1,000,000, in lieu of \$500,000.
- Section 4. Allows letter of agreement for architectural services for projects estimated at less than \$50,000, in lieu of \$25,000.
- Section 4. Omits redundant requirement for errors and omissions insurance.
- Section 4. Increases minimum professional liability insurance requirements and omits deductible maximums.
- Section 4. Omits retainage on construction phase fees because of the Section 12 penalties for malfeasance or nonfeasance.
- Section 4. Allows additional payment for services extending beyond scheduled construction contract completion date under certain conditions.
- Section 4. Omits erroneous criteria for change order fees.
- Section 5. Raises to \$2,000,000 the estimated cost of projects for the use of CM services.

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- Section 5. Allows additional payment for services extending beyond scheduled construction contract completion date under certain conditions.
- Section 5. Omits retainage on construction phase fees because of the Section 12 penalties for malfeasance or nonfeasance.
- Section 6. Requires the Owner to carry property insurance written on a builder's risk "all-risk" policy, unless provided otherwise.
- Section 8. Prior to execution by the owner, requires division approval of proposed change orders exceeding \$7,500, in lieu of \$5,000.
- Section 9. Revises construction contract retainage to comply with Kentucky Fairness in Construction Act, omits the final on-site review by the division, and transfers to the local board the final approval for payment to the contractor.
- Section 10. Establishes rules for mediation, and removes the Mediation Center of Kentucky from the regulation.
- Section 11. Transfers from the division to the owner the final approval for payment to the contractor.
- Section 13. Incorporates revised BG forms, Non-Collusion Affidavit, and AIA Documents.
- Amendments to AIA Documents were necessary to conform to the above revisions and continue the normal capital construction practices in the Commonwealth.